

§ 1201.125

complaint under paragraphs (c) and (d), respectively, of this section.

(b) *Rights.* When the Special Counsel files a complaint proposing a disciplinary action against an employee under 5 U.S.C. 1215(a)(1), the employee has the right:

(1) To file an answer, supported by affidavits and documentary evidence;

(2) To be represented;

(3) To a hearing on the record before an administrative law judge;

(4) To a written decision, issued at the earliest practicable date, in which the administrative law judge states the reasons for his or her decision; and

(5) To a copy of the administrative law judge's decision and subsequent final decision by the Board, if any.

(c) *Filing and default.* A party named in a Special Counsel disciplinary action complaint may file an answer with the Clerk of the Board within 35 days of the date of service of the complaint. If a party fails to answer, the failure may constitute waiver of the right to contest the allegations in the complaint. Unanswered allegations may be considered admitted and may form the basis of the administrative law judge's decision.

(d) *Content.* An answer must contain a specific denial, admission, or explanation of each fact alleged in the complaint. If the respondent has no knowledge of a fact, he or she must say so. The respondent may include statements of fact and appropriate documentation to support each denial or defense. Allegations that are unanswered or admitted in the answer may be considered true.

§ 1201.125 Administrative law judge.

(a) An administrative law judge will hear a disciplinary action complaint brought by the Special Counsel.

(b) The administrative law judge will issue an initial decision on the complaint pursuant to 5 U.S.C. 557. The applicable provisions of §§ 1201.111, 1201.112, and 1201.113 of this part govern the issuance of initial decisions, the jurisdiction of the judge, and the finality of initial decisions. The initial decision will be subject to the procedures for a

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petition for review by the Board under subpart C of this part.

[62 FR 48451, Sept. 16, 1997, as amended at 63 FR 42686, Aug. 11, 1998; 70 FR 30609, May 27, 2005; 78 FR 39545, July 2, 2013]

§ 1201.126 Final decisions.

(a) In any action to discipline an employee, except as provided in paragraph (b) of this section, the administrative law judge, or the Board on petition for review, may order a removal, a reduction in grade, a debarment (not to exceed five years), a suspension, a reprimand, or an assessment of a civil penalty not to exceed \$1,000. 5 U.S.C. 1215(a)(3).

(b) In any action in which the administrative law judge, or the Board on petition for review, finds under 5 U.S.C. 1505 that a State or local government employee has violated the Hatch Political Activities Act and that the employee's removal is warranted, the administrative law judge, or the Board on petition for review, will issue a written decision notifying the employing agency and the employee that the employee must be removed and not reappointed within 18 months of the date of the decision. If the agency fails to remove the employee, or if it reappoints the employee within 18 months, the administrative law judge, or the Board on petition for review, may order the Federal entity administering loans or grants to the agency to withhold funds from the agency as provided under 5 U.S.C. 1506.

[62 FR 48451, Sept. 16, 1997, as amended at 70 FR 30609, May 27, 2005; 78 FR 39545, July 2, 2013]

§ 1201.127 Judicial review.

(a) An employee subject to a final Board decision imposing disciplinary action under 5 U.S.C. 1215 may obtain judicial review of the decision in the United States Court of Appeals for the Federal Circuit, except as provided under paragraph (b) of this section. 5 U.S.C. 1215(a)(4).

(b) A party aggrieved by a determination or order of the Board under 5 U.S.C. 1505 (governing alleged violations of the Hatch Political Activities Act by State or local government employees) may obtain judicial review in